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U.S. Department
of Transportation

Research and
Special Programs
Administration

John A. Volpe
National Transportation
Systems Center

Kendall Square
Cambridge, Massachusetts 02142

October 28, 2000

Kendall Ward Trucking
421 Wards Road
Libby, MT 59923

Subject: Open-cut Mining Permit – Status and Necessity

Dear Mr. Ward:

As of the close of business Friday, October 27, 2000, you have delivered approximately 10,769 cubic yards from your borrow source to the former W.R. Grace Screening Facility. Per your contract with the Volpe Center you are being paid based upon this, and subsequent, delivered volume. However, this volume differs from the volume of soil in-situ and associated permit requirements. Utilizing a factor for expansion of 30%, this equates to an in-situ quantity of soil removed of 8,284 cubic yards. Based upon your current average daily delivery volume of approximately 1,538 cubic yards (equivalent to 1,183 cubic yards in-situ), you will have removed 10,000 cubic yards of in-situ soil from your borrow source by mid-day Monday, October 30, 2000. It is my understanding that if your operation is considered open-cut mining, you require a permit upon excavation of 10,000 cubic yards of soil. Your contract with the Volpe Center requires you to have all required licenses and permits.

I understand that you are meeting with the state regulator responsible for mining in the state of Montana on Monday, October 30, 2000, to determine the necessity of an open-cut mining permit. I also understand that you are currently operating under the assumption that you are conducting an agricultural expansion of a field and thus do not require an open-cut mining permit. Please keep in mind if it is determined that a permit is required you must submit the permit prior to mid-day Monday. Otherwise, your operation will have to stop at the direction of the Contracting Officer.

If you have any questions, please contact me at 617-494-2574.

Sincerely,

John McGuiggin, PE
Project Manager, Contracting Officer's Technical Representative

Cc: Ms. Linda Byrne, Contracting Officer
Ms. Nancy Garrity, Alternate Contracting Officer's Technical Representative
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